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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

JAMES D. CROSBY,

Plaintiff,

vs.

PHILIP NEUMAN,

Defendant.

Case No.: 2:17-cv-02474

State Case No. A-16-739130-F  
(District Court, Clark County)

**NOTICE OF REMOVAL**

Defendant Philip Neuman, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, removes this action from the District Court of Clark County, Nevada (the “State Court”), Case No. A-16-739130-F, to the United States District Court for the District of Nevada. In support of removal, Defendant states:

1. Basis for Jurisdiction in this Court.

This Court has jurisdiction over this removed action under 28 U.S.C. § 1441(a) because:

- (i) This action could have been filed in this Court pursuant to 28 U.S.C. § 1332 because it is a civil action between citizens of different states and the amount in controversy exceeds the sum of \$75,000, exclusive of interests and costs; and
- (ii) Defendant is not a citizen of Nevada, the state in which this action was brought, as required under 28 U.S.C. § 1441(b)(2).

2. Background.

On or about June 27, 2016, Plaintiff filed an Application for Foreign Judgment (the “Application”) in the State Court pursuant to Nevada’s enactment of the Uniform Enforcement of

1 Foreign Judgments Act, NRS 17.330, *et seq.* A summons and complaint were never filed or issued,  
2 however, and Defendant was never served pursuant to NRCP 4. A copy of the Application, which  
3 does not constitute an “initial pleading” under either NRCP 7 or Fed.R.Civ.P. 7(a), is annexed  
4 hereto as Exhibit 1.

5 On August 24, 2017, Plaintiff commenced this civil action by filing an Ex Parte Application  
6 for Examination of Judgment Debtor (the “Ex Parte Application”), which was also not served on  
7 Defendant. Copies of the Ex Parte Application and the Plaintiff’s supporting affidavit are annexed  
8 hereto as Exhibit 2.

9 On the same day, August 24, 2017, the State Court issued an Order for Appearance of  
10 Judgment Debtor (the “Order of Appearance”), which directed Defendant to appear on September  
11 25, 2017 “to answer questions under oath” regarding the Defendant’s assets and property. A copy  
12 of the Order of Appearance is annexed hereto as Exhibit 3.

13 3. Diversity.

14 There is the requisite complete diversity of citizenship between the Plaintiff and the  
15 Defendant. *See* 28 U.S.C. § 1332. Plaintiff is a citizen of California whereas Defendant is a citizen  
16 of New York. In addition, the Defendant is not a citizen of Nevada. *See* 28 U.S.C. § 1441(b)(2)

17 4. Amount in Controversy.

18 The amount in controversy exceeds \$75,000 because the amount of the judgment Plaintiff  
19 seeks to enforce through this action is \$512,068.17 as of April 15, 2014. *See* Application for  
20 Foreign Judgment (Exhibit 1) at Amended and Restated Judgment, p. 2.

21 5. Notice Given.

22 Pursuant to 28 U.S.C. § 1446(d), Defendant is filing this Notice of Removal with the clerk  
23 in the State Court in which the action is currently pending. A copy of Defendant’s Notice of Filing  
24 of Notice of Removal is annexed hereto as Exhibit 3.

25 6. Removal is Timely.

26 Plaintiff commenced this civil action in the State Court on August 24, 2017 by filing the Ex  
27 Parte Application because that application was the first claim for relief made that required the State  
28 Court to exercise personal jurisdiction over the Defendant. On August 25, 2017, the Plaintiff

attempted to serve Defendant with the Ex Parte Application and Order of Appearance at an address at which Defendant does not reside. A copy of the Affidavit of Service setting forth the incorrect address is annexed hereto as Exhibit 4. This Notice of Removal is nevertheless being filed within 30 days of that attempt at service and is therefore timely. 28 U.S.C. § 1446(b); *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 334, 354 (1999) (holding that the thirty-day time period under the removal statute begins to run from the date of formal service).

7. Pleadings and Process.

As required by 28 U.S.C. § 1446(a), Defendant has attached copies of all state court process, pleadings, orders, and other papers on file with the state court. *See* Exhibits 1-4.

8. Venue.

This Court, the United States District Court for the District of Nevada, embraces the county in which Plaintiff commenced this action in the State Court. Removal to this Court is therefore proper pursuant to 28 U.S.C. § 1441(a).

9. Reservation of Rights.

Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of Defendant's right to assert any defense or affirmative mayter, including, without limitation, the defenses of (1) this Court's and the State Court's lack of personal jurisdiction over the Defendant; (2) improper, inadequate, and insufficient service of process; (3) failure to state a claim; (4) improper venue; or (5) any other defense available under state or federal law.

WHEREFORE, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant respectfully removes this action from the State Court to this Court.

DATED this 22<sup>nd</sup> day of September 2017.

AVRAMSKI LAW, PC

/s/ Boris Avramski

By: \_\_\_\_\_  
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Telephone: (702) 685-3618

*Attorney for Defendant Phil Neuman*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 22, 2017, I electronically filed the foregoing **NOTICE OF REMOVAL** with the Clerk of Court for the U.S. District Court, District of Nevada by using the Court's CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. I have also emailed the NOTICE OF REMOVAL to the following parties:

James D. Crosby, pro se Plaintiff  
[crosbyattorney@gmail.com](mailto:crosbyattorney@gmail.com)

DATED this 22<sup>nd</sup> day of September 2017.

*/s/ Boris Avramski*

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BORIS AVRAMSKI, ESQ